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FEDERAL COMMUNICATIONS COMMISSION  
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**BY HAND DELIVERY**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**Re: MM Docket No. 98-43  
1998 Biennial Regulatory Review — Streamlining  
of Mass Media Applications, Rules, and Processes**

Dear Ms. Salas:

Transmitted herewith on behalf of Educational Broadcasting Corporation, licensee of noncommercial educational television broadcast station WNET, Newark, New Jersey, are an original and nine copies of its Comments in the above-referenced rulemaking proceeding.

Respectfully submitted,

*Barbara K. Gardner*

Barbara K. Gardner

BKG/msg  
Enclosures

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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554In the Matter of )  
)  
)1998 Biennial Regulatory Review — Streamlining )  
of Mass Media Applications, Rules, and Processes )  
)  
)

MM Docket No. 98-43

**COMMENTS OF EDUCATIONAL BROADCASTING CORPORATION**

Educational Broadcasting Corporation ("EBC"), licensee of noncommercial educational television broadcast station WNET, Newark, New Jersey, hereby supports the streamlined ownership reporting requirements proposed for noncommercial broadcast licensees in the *Notice of Proposed Rule Making* in the captioned proceeding, FCC 98-57 (released April 3, 1998) ("Notice"). Elimination of the current 30-day supplemental reporting requirement coupled with a regular four-year filing requirement will significantly reduce the ownership reporting burden on noncommercial licensees such as EBC. In addition, the Commission should direct that such licensees need not report other broadcast interests in their ownership filings, since the Commission's broadcast multiple ownership rule does not apply to these licensees.

**I. AT MOST, NONCOMMERCIAL LICENSEES SHOULD BE REQUIRED TO FILE OWNERSHIP REPORTS EVERY FOUR YEARS.**

Before 1984, pursuant to Rule 73.3615 all FCC broadcast licensees were required to report, within 30 days, any change in their ownership information. In its landmark *Attribution* proceeding that year, however, the FCC determined to require only annual ownership filings:

We see no need for collecting this information on a more frequent basis. Our information collection comprises primarily a monitoring function, which experience has proven to be sufficiently served by a yearly review.

*Corporate Ownership Reporting and Disclosure by Broadcast Licensees*, 97 F.C.C.2d 997, 1032 (1984) ("*Attribution*"). Although the new requirement was to apply to "licensees" generally, *id.*, only Section 73.3615(a), applicable to commercial licensees, was actually altered. Section 73.3615(f) continued to require noncommercial licensees to file new ownership reports on Form 323-E within 30 days of a change in the reported information, and does so to this day.<sup>1</sup>

As the Commission appears to recognize in the instant proceeding, now is the time to terminate the FCC's unfortunate disparate treatment of noncommercial and commercial licensees with respect to mandatory ownership reporting. EBC wholeheartedly supports the Commission's proposal to delete noncommercial licensees' 30-day supplemental reporting requirement, and require commercial and noncommercial licensees alike to file ownership reports every four years.<sup>2</sup>

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<sup>1</sup> In addition, Section 73.3615(d) requires noncommercial licenses to file an ownership report on Form 323-E with their renewal applications.

<sup>2</sup> *Notice* at 30 paras. 85, 88.

The burden on noncommercial licensees created by Section 73.3615(f) is illustrated by the fact that during 1995 alone, EBC filed four separate ownership reports reflecting changes in its officers, Board of Trustees, and reportable contracts, after having filed three such reports in 1994 (one to accompany its renewal application, and two later filings reporting trustee, officer and By-Laws changes). In each of 1996 and 1997, EBC filed two ownership reports, and will shortly file its second one for 1998. In addition to the required reporting triggered by changes in its officers, organizational documents or reportable contracts, or in the other broadcast interests of its officers, EBC must report every election, interim appointment, resignation, or change in the other broadcast interests of any one of its fifty trustees. Even for noncommercial broadcasters with smaller governing boards, this is a significant fact-gathering and reporting burden.

As the Commission is aware, noncommercial broadcasters generally lack the financial resources of their commercial brethren, and continuing significant reductions in federal support for noncommercial broadcasting will widen the existing funding gap between the two groups. If anything, therefore, filing requirements for noncommercial licensees should be less rather than more burdensome than those applicable to commercial broadcasters, as the Commission has recognized in other contexts.<sup>3</sup> Such forbearance is particularly appropriate with regard to ownership reports, since these reports are primarily intended to assess compliance with the Commission's broadcast multiple ownership rule and, as noted below, that rule does not apply to noncommercial licensees.

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<sup>3</sup> See, e.g., *Children's Television Programming*, 6 FCC Rcd 5093, 5101 (1991) (with respect to children's programming renewal review, FCC "toll[s] application of specific record-compilation, filing and submission requirements to noncommercial stations.").

Moreover, the slight changes which currently trigger the mandatory filing of a supplemental ownership report by noncommercial licensees, such as a change in a few members of a forty- or fifty-member governing board, provide no significant information bearing on any other FCC regulation applicable to noncommercial licensees. In any case, as the *Notice* indicates, the Commission may at any time require any licensee to file full current ownership information, if that information is needed to discharge the Commission's regulatory responsibilities.<sup>4</sup>

For these reasons, EBC requests that noncommercial and commercial licensees alike file ownership reports only when they file their license renewal applications, and four years thereafter. Moreover, should the Commission relax the annual ownership reporting requirement currently governing commercial licensees in some other manner, or even retain annual reporting for such licensees, the same requirement should explicitly be made applicable to noncommercial licensees, and Section 73.3615(f) should be deleted.

## **II. NONCOMMERCIAL LICENSEES SHOULD NOT BE REQUIRED TO REPORT OTHER BROADCAST INTERESTS.**

Question 4 of Form 323-E states: "Show the interests in any other broadcast station of the licensee or permittee, or any of its officers, members of the governing board, and holders of 1% or more ownership interest, if any." Responding to this query with currently accurate information for those of the dozens of trustees and officers of a typical noncommercial licensee that may hold such interests at any given time is clearly onerous. Moreover, such reporting

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<sup>4</sup> *Notice* at para. 87.

serves no *bona fide* regulatory purpose, since the limitations on attributable interests in broadcast stations set forth in Section 73.3555 of the Commission's Rules are, by virtue of Section 73.3555(f), inapplicable to noncommercial educational stations. Accordingly, Question 4 of Form 323-E should be deleted, or the Commission should direct that it no longer need be completed.

### CONCLUSION

The Commission's proposal to apply its ownership reporting requirements identically to commercial and noncommercial licensees should be adopted. At a minimum, noncommercial licensees' 30-day supplemental reporting requirement should be deleted. In addition, the requirement to report other broadcast interests of noncommercial licensees and their principals has no purpose and should be deleted.

Respectfully submitted,

**EDUCATIONAL BROADCASTING  
CORPORATION**

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June 16, 1998

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